

## **REMARKS**

The Applicant respectfully thanks the Examiner for indicating that claims 12 and 13 would be allowed if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Accordingly, claim 12 was amended to include the limitations of the base claim 10 and intervening claim 11. Thus, claim 12 and dependent claim 13 should be in condition for allowance.

Claim 10 was amended to include that “the control lever and actuating lever extend in two parallel and distinct planes.” Support for the amendment may be found in Figure 1, showing the control lever 14 and the actuating lever 16 extending in parallel and distinct planes.

The specification was amended to clarify, as shown in Figure 1, that the control lever 14 and actuating lever 16 “extend in two parallel and distinct planes.” Support for the amendment may also be found in original claim 1 which included that the lever extended in distinct planes.

### **A. The Rejections**

Claims 10, 11, and 15-17 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 3,762,159 to Kitai et al. (hereafter “Kitai”).

Claim 14 was rejected under 35 U.S.C. §103(a) as being unpatentable over Kitai in view of U.S. Patent 5,751,668 to Eray (hereafter “Eray”). The Examiner alleges that Kitai discloses the claimed invention except for the stem having a groove that houses a sealing gasket.

### **Applicants’ Arguments**

#### **35 USC §102(b)**

Anticipation under 35 U.S.C. § 102 requires showing the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim. Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick, 221 U.S.P.Q. 481, 485 (Fed. Cir. 1984). In this case, the Examiner has failed to establish a prima facie case of anticipation against claim 10 because the Kitai fails to teach, or even suggest, each and every element of claim 1 as arranged in claim 10. For example, Kitai does not disclose “the control lever and the actuating lever extend in two parallel and distinct planes” as does claim 10. Rather, Applicant respectfully asserts that as depicted in Figure 2 of Kitai, control lever 33 and actuating lever 15 lie in the same plane. Thus, Applicant contends that claim 10 and dependent claims 11 and 15-18 are not anticipated by Kitai.

**35 USC §103(a)**

A prima facie case of obviousness requires showing that the scope and content of the prior art teaches each and every element of the claimed invention. In re Oetiker, 24 U.S.P.Q.2d 1443 (Fed. Cir. 1992); In re Vaeck, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991). In addition, to establish obviousness, it must be shown that a person of ordinary skill in the art would have had reason to attempt to make the composition or device, or carry out the claimed process, and would have had a reasonable expectation of success in doing so. Pharmastem Therapeutics, Inc. v. Viacell, Inc., 491 F.3d 1342, 1360 (Fed. Cir. 2007) (citing KSR Int'l Co. v. Teleflex Inc., 127 S.Ct. 1727, 1740, 167 L.Ed.2d 705 (2007)).

In the present case, the combination of prior art fails to teach the elements of the claims as presently amended because as discussed above, neither Kitai nor Eray disclose that the control lever and the actuating lever extend in two parallel and distinct planes” as does claim 10 from which claim 14 depends. The Examiner asserts that Kitai discloses the device with the exception of the stem having a groove that houses a sealing gasket, however, as


discussed above, the Applicant asserts that Kitai does not disclose the base device, thus, even if Eray discloses a stem having a groove that houses a sealing gasket, Eray cannot make up what Kitai fails to disclose as the base device. Thus, Applicant asserts that claim 14 is also in condition for allowance.

## **CONCLUSION**

In view of the present amendment, Applicants respectfully assert that claims 10-18 are in condition for allowance and a prompt notice of allowance is earnestly solicited. The below-signed attorney for Applicants welcomes any questions.

Respectfully submitted,

*GRIFFIN & SZIPL, P.C.*



---

Joerg-Uwe Szipl  
Registration No. 31,799

GRIFFIN & SZIPL, P.C.  
Suite PH-1  
2300 Ninth Street, South  
Arlington, VA 22204

Telephone: (703) 979-5700  
Facsimile: (703) 979-7429  
Email: gands@szipl.com  
Customer No.: 24203